

## General Conditions of Purchase

(Status: 2008)

### § 1 General, Scope of Agreement

1. Our conditions of purchase apply exclusively; contradictory conditions or conditions differing from our conditions of purchase issued by the supplier are not accepted, unless the applicability thereof was explicitly confirmed in writing by us. Our conditions of purchase shall also apply, if we accept delivery from the supplier without reservations and in full awareness of other conditions issued by the supplier, which may deviate from our own conditions of purchase.
2. All agreements that are made between us and the supplier regarding the execution of this contract are to be specified within this contract in writing.
3. Our conditions of purchase only apply to contractors as according to § 310 Sect. 4 BGB [Civil Code].

### § 2 Quote, Offer Documents

1. The supplier is committed to accept our order within the time period of 5 working days.
2. All intellectual property and copyrights to images, drawings, calculations and other documentation are reserved; these may not be made available to third parties without our explicit written permission. These are to be solely used for the manufacturing of our order; after execution of the order, these are to be returned to us without further solicitation. These are to be kept confidential from third parties, insofar the provision in § 9 Sect. 4 is supplementary.

### § 3 Prices, Terms of Payment

1. The price as shown in the order is deemed binding. In the absence of other written agreement, the price is understood to include delivery free to the door including packaging. The return of the packaging requires special agreement.
2. The legal value added tax is not included in the price.
3. Invoices are only processed if these mention the order number as per the specifications in our order; the supplier is deemed responsible for all consequences arising out of the failure to meet this obligation, unless the supplier is able to establish that he is not at fault.
4. We settle the purchase price within 14 days from delivery and receipt of the invoice, unless agreed otherwise, with 3 % early payment discount or within 60 days after receipt of invoice at net value.
5. We retain rights to offset and withhold as per the legal prescription.

### § 4 Terms of Delivery

1. The delivery time as shown in the order is deemed binding.
2. The supplier is committed to immediately inform us in writing when circumstances arise or become apparent to him, which may result in the failure to meet the stipulated time of delivery.

3. In case of default of delivery, we are entitled to the legally prescribed claims. Specifically, we are entitled to demand damages instead of performance of delivery after the inefficacious expiry of an appropriate deadline. Should we demand damages, then the supplier has the right to prove that he was not responsible for the breach of duty.

#### **§ 4 a) Quality Documentation**

1. The supplier is to meet the generally recognised codes of practice, the safety regulations and the agreed technical specifications for his deliveries. He guarantees to meet the WEBER-HYDRAULIK GMBH "Guidelines for Quality Assurance of Deliveries", which are to be made available to him free of charge at any time.

#### **§ 5 Transfer of Risk, Documents**

1. The delivery is to take place free to the door, unless agreed otherwise in writing.
2. The supplier is committed, to specify our exact order number on all shipping documents and delivery notes; if he fails to do so, then we are not at fault for delays in the processing thereof.
3. With the discontinuation of the SVS / RVS [Insurance Terms] as of the 30th of June 1998, previous declarations of the waiver / partial waiver of insurance are not valid any longer. Since the 1st of July 1998, we waive freight insurance as part of the freight forwarding contract.

#### **§ 6 Inspection for Defects, Guarantee**

1. We are committed to inspect the goods for possible deviations of quality and quantity within a reasonable time frame; the notice is deemed timely if it is received by the supplier within a time period of 5 working days from receipt of goods, or 5 working days from discovery for hidden defects.
2. In the event of a notice of defects and the creation of an inspection report, a lump sum fee of € 50.00 per inspection report is charged for expenses.
3. The legal claims for defects are to be available to us without restriction; in any case, we are entitled to demand the correction of defects or delivery of new goods from the supplier. The entitlement to damages, in particular the right to compensation instead of delivery, is explicitly reserved.
4. We are entitled to undertake the correction of defects at the expense of the supplier, if there is danger in delay or particular urgency.
5. The period of limitation amounts to 36 months from the transfer of risk.

#### **§ 7 Product Liability, Release, Indemnity Insurance**

1. As far as the supplier is responsible for damage to the products, he is committed to indemnify us from claims for damages from third parties upon our first request, as far as the cause is to be found within his domain and organizational scope and as far as he is liable to third parties.
2. In the scope of a liability for damages in the sense of Sect. 1, the supplier is also committed to compensate for possible costs as according to §§ 683, 670 BGB as well as §§ 830, 840, 426 BGB, which may arise from or in the context

of a recall procedure initiated by us. The supplier will be notified of the content and scope of the recall procedure to be conducted as far as possible and reasonable - and to afford the possibility to respond. Other legally prescribed claims remain intact.

3. The supplier commits to maintain general product liability insurance with a cover of € 10 million per incident of damage to persons or property; if there are further claims for damages due to us, these remain intact.

### **§ 8 Protective Rights**

1. The supplier guarantees that no rights of third parties are violated in the Federal Republic of Germany in the scope of the delivery.
2. If third parties raise such claims against us in this context, then the supplier is committed to indemnify us against such claims upon our first written demand; we are entitled to enter into agreements with said third party without the assent of the supplier, this includes in particular the agreement upon a settlement.
3. The indemnity bond of the supplier applies to all expenses, which necessarily arise from or in the context of claims from third parties.
4. The period of limitation amounts to 10 years from the conclusion of contract.

### **§ 9 Retention of Title, Supplies, Tools, Confidentiality**

1. Insofar as parts are made available to the supplier, we reserve all property rights to the object. Processing and re-working are to be conducted by the supplier on our behalf. If our parts, which are subject to the retention of title, are processed together with items that are not in our possession, then we shall attain co-ownership of the new goods to be processed as a proportion of the value of our parts (price of purchase plus value added tax) in relation to the other goods at the time of processing.
2. If the parts provided by us are inextricably compounded with other goods that are not in our possession, then we shall attain co-ownership of the new goods as a proportion of the value of the goods that are subject to the retention of title (purchase price plus value added tax) in relation to the other compounded parts at the time of the interfusion. If the compounding takes place in such a manner that the parts of the supplier are to be regarded as the principal item, then it is deemed to be agreed that the supplier is to transfer partial ownership to us; or that the supplier retains the sole ownership or co-ownership on our behalf.
3. We retain the title to all tools; the supplier is committed to only utilise the tools in the production of the goods ordered by us. The supplier is committed to insure our tools at replacement value against fire damage, water damage, and theft at his own expense. At the same time, the supplier assigns all claims for compensation from this insurance to us at this point; we hereby accept the assignation. The supplier is committed, to conduct required maintenance and inspection works to our tools as well as all reinstatement and repair works in good time and at his own expense. We are to be immediately notified of eventual incidents; if he culpably fails to do so, the claims for damages shall remain intact.
4. The supplier is committed, to keep strictly confidential all received diagrams, drawings, calculations and other documents and information. These must only be made available to third parties upon our explicit permission. The



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confidentiality clause also continues to be in force after execution of this contract; it expires, once and insofar as the production technology contained in the conveyed diagrams, drawings, calculations and other documents has become general knowledge.

5. As far as the security interests due to us as according to Section 1 and/or Section 2 exceed the purchase price of all unpaid goods subject to retention of title by more than 10 %, we are obligated to release of the security interests of our choice upon the of the supplier.

### § 10 Jurisdiction, Place of Fulfilment

1. If the supplier is a trader, our registered office shall be deemed to be the place of jurisdiction; we are nonetheless entitled, to bring an action against the supplier at the court of his residence.
2. Insofar as no other specification is made in the order, our registered office shall be considered to be the place of fulfilment.